

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

| | | |
|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:17cr328-MHT |
| |) | (WO) |
| LASONYA ATWOOD and |) | |
| KLESHINDA S. MILES |) | |

OPINION AND ORDER

This cause is before the court on defendant Lasonya Atwood and the government's joint motion to continue, and defendant Kleshinda S. Miles's oral motion to continue made on the record on February 27, 2018. For the reasons set forth below, the court finds that jury selection and trial for both Atwood and Miles, now set for March 12, 2018, should be continued pursuant to 18 U.S.C. § 3161(h).

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

Id. § 3161(c)(1). The Act excludes from the 70-day period any continuance based on "delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant." *Id.* § 3161(h)(1)(A). It also excludes continuances grounded in "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." *Id.* § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." *Id.*

§ 3161(h)(7)(B)(iv). The Act further excludes from the 70-day period "[a] reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted." *Id.* § 3161(h)(6).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public, Atwood, and Miles in a speedy trial.

Atwood is currently held at the Federal Medical Center, Carswell, for a mental-health evaluation of her competency to stand trial and of her sanity at the time of the alleged offense. The Bureau of Prisons ("BOP") represented in a motion on December 27, 2017, that the evaluation would be completed by March 4, 2018, and that a report would be submitted within two weeks of that date. See Motion for Extension of Time (doc. no. 30) at 1. A continuance in this matter is therefore warranted to allow the BOP sufficient time to complete the evaluation and report, and to allow Atwood and her

counsel time to confer and decide on a course of action in light of the results.

This additional time is also excluded from Miles's Speedy Trial Act computation as a "reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted." 18 U.S.C. § 3161(h)(6). In addition, counsel for Miles represented on the record on February 27, 2018, that additional time is needed in order for Miles to weigh her options and prepare with counsel accordingly. A continuance is therefore also warranted to provide Miles's counsel reasonable time to prepare for trial. See *Id.* § 3161(h)(7)(A).

Accordingly, it is ORDERED as follows:

(1) Defendant Lasonya Atwood and the government's joint motion for continuance (doc. no. 36) and defendant Kleshinda S. Miles's oral motion for a continuance (doc. no. 39) are granted.

(2) The jury selection and trial for defendants Atwood and Miles, now set for March 12, 2018, are reset for May 21, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 1st day of March, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE